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Daniel De Sousa

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

EXAMINER

EL CHANTI, HUSSEIN A

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL DE SOUSA and GUSTAVO GUERRERO

Appeal 2010-001546
Application 10/691,795
Technology Center 3600

Before HOWARD B. BLANKENSHIP, CAROLYN D. THOMAS, and
ANDREW J. DILLON, *Administrative Patent Judges*.

DILLON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 2, 4-8, and 10-14. Claims 3 and 9 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellants' invention is directed to a system for gathering and translating information from a wide variety of sources and translation of that information to present the information in a suitable format for a wide variety of different applications. *See Abstract*

Claim 1 is illustrative, with key disputed limitations emphasized:

1. A system for communicating remote sources and users of real time data, comprising:

an installation-local unit comprising at least one receiver communicated with an installation for receiving real time data from said installation and, a formatting unit for formatting said real time data into a suitable communication protocol so as to provide universal data;

an additional unit spaced from said installation-local unit and communicated with said installation-local unit for receiving said universal data, and further comprising an additional formatting unit for translating said universal data into a different application protocol so as to provide user-application compatible data; and

a user-application of said real time data adapted to receive said user-application compatible data, wherein said installation local unit comprises a plurality of installation local units at least two of which generate said real time data in different formats, and *wherein said additional unit comprises at least two additional units having user-applications of said*

real time data which require said real time data in at least two different formats.

The Examiner relies on the following as evidence of unpatentability:

Sheard	US 6,453,356 B1	Sept. 17, 2002
Gollnick	US 7,206,592 B1	Apr. 17, 2007 (filed Oct. 8, 2001)
Hill	US 6,937,159 B2	Aug. 30, 2005 (filed Feb 1, 2002)

THE REJECTIONS

1. The Examiner rejected claims 1, 4, 5, 7, 10, and 11 under 35 U.S.C. § 102(a) as anticipated by Sheard. Ans. 3-6.¹
2. The Examiner rejected claims 2, 6, 8, and 12 under 35 U.S.C. § 103(a) as unpatentable over Sheard and Gollnick. Ans. 6-7.
3. The Examiner rejected claims 13 and 14 under 35 U.S.C. § 103(a) as unpatentable over Sheard and Hill. Ans. 7-8.

ISSUE

Under § 102, has the Examiner erred in rejecting claims 1, 4, 5, 7, 10, and 11, by finding that Sheard discloses a method for communicating between remote sources and users of real time data comprising formatting units for translating data into at least two different formats?

¹ Throughout this opinion, we refer to the Appeal Brief filed January 23, 2009, the Examiner's Answer mailed August 18, 2009, and the Reply Brief filed October 19, 2009.

ANALYSIS

Only those arguments actually made by the Appellants have been considered in this decision. Arguments which the Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37 (c)(1)(vii) (2008).

Appellants provide similar arguments with respect to independent claims 1 and 7. (App. Br. 4-5). Further, Appellants provide no separate arguments with respect to claims 2, 6, 8, and 12-14. (App. Br. 5).

Accordingly, we select claim 1 as being representative of the claims. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellants argue, with respect to claim 1, that Sheard discloses multiple adaptors and applications but fails to disclose “a plurality of additional units designed to receive the universal data and then transform this data into proper protocol for different user-applications.” App. Br. 4, *See also* Reply Br. 1-2.

The Examiner finds that Sheard teaches a system for communicating between remote sources and users of real time data which utilizes an installation-local unit having a receiver (adapter 34A) and additional units which include formatting units (adapters 34B-D), where the adapters receive data formatted in a first protocol and translate that data into a generic format. Ans. 3-4. We agree with the Examiner. We find that Appellants have not provided any special definition for “additional units” within their Specification and consequently, based upon our review of the record, we find the preponderance of evidence supports the Examiner’s finding that the disputed subject matter of representative claim 1 reads on Sheard’s formatting units and is thus anticipated by Sheard.

Accordingly, we sustain the Examiner's anticipation rejection of claims 1, 4, 5, 7, 10, and 11 for the reasons noted above and set forth in the Answer (Ans. 3-4), which we adopt and incorporate herein by reference.

The Appellants have not separately argued the patentability of claims 2, 6, 8, and 12-14 under § 103(a). Consequently, these claims fall with the claims from which they depend. *See* 37 C.F.R. § 41.37(c)(1)(vii).

We are therefore not persuaded that the Examiner erred in rejecting claims 1, 2, 4-8, and 10-14.

CONCLUSION

The Examiner did not err in rejecting claims 1, 2, 4-8, and 10-14.

ORDER

The Examiner's decision rejecting claims 1, 2, 4-8, and 10-14 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

llw